IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

RPFC.No. 235 of 2007()

MC.24/2004 of FAMILY COURT, THIRUVALLA

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: REVISION PETITIONER/RESPONDENT

AJI JOSEPH, S/O.T.H.JOSEPH,
THEVARAKAVIL, KUZHIKKALA MURI, ELANTHOOR VILLAGE,
KOZHENCHERRY TALUK.

BY ADV. SRI.TITUS MANI

RESPONDENTS: PETITIONER

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1. SUJA, D/O.AMMINI GEORGE,
GRACE BHAVAN, KADIKA, THYPPARAMBU MURI,
ENATHU VILLAGE, ADOOR TALUK.

2. KERIM JOSEPH KOSHY, (MINOR), S/O.SUJA,
GRACE BHAVAN, KADIKA, THYPPARAMBU MURI,
ENATHU VILLAGE, ADOOR TALUK.

3. ANU ELSA KOSHY, (MINOR), D/O.SUJA,
GRACE BHAVAN, KADIKA, THYPPARAMBU MURI,
ENATHU VILLAGE, ADOOR TALUK.

4. ANCHU ELSA KOSHY, (MINOR), D/O.SUJA,
GRACE BHAVAN, KADIKA, THYPPARAMBU MURI,
ENATHU VILLAGE, ADOOR TALUK.
(RESPONDENTS 2 TO 4 ARE REPRESENTED BY
1ST RESPONDENT, MOTHER AND NATURAL GUARDIAN).

BY ADV. SRI.SIRAJ KAROLY
PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 01/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

R.P.(F.C.) No. 235 OF 2007

Dated this the 1st day of October, 2007

O R D E R

The revision petitioner, who is the husband of the 1st respondent herein and father of respondents 2 to 4 herein, was the counter petitioner in M.C.24/04 filed by the respondent before the Family Court, Thiruvalla, claiming maintenance under section 125 Cr.P.C. at the rate of Rs.1,500- for the wife and at the rate of Rs.1,000/- each for the two of the children(respondents 3 and 4 herein), the 2nd respondent being in the custody of the revision petitioner and maintained by him.

2. The Family Court as per final order dated 27.3.07 has directed the revision petitioner to pay a monthly allowance of Rs.800/- to the 1st respondent herein and Rs.700/- each to respondents 4 and 5 after giving credit to the payment of interim maintenance totalling to Rs.15,500/-.

3. The order passed by the Family Court is an exparte order. The revision petitioner who had filed objections to the M.C. and who was appearing promptly before the court below was denied the opportunity to contest the matter.

4. After hearing both sides, I am of the view that the revision petitioner should have been given an opportunity to contest the matter since he had not exhibited any dilatory tactics with a view to protract the proceedings or defeat the claim for maintenance. But he cannot have the luxury of an opportunity to contest the matter on merits unless he complies with the following conditions:-

Accordingly, if the revision petitioner deposits before the Family Court a sum of Rs.25,000/- (Rupees twenty five thousand only) towards arrears of maintenance within one month from today and continues to pay at the rate of Rs.1,500/- (Rupees one thousand five hundred only) per month towards future maintenance from November, 2007 onwards, he shall be given an opportunity to contest M.C.24/04. Upon the revision petitioner depositing the sum of Rs.25,000/- as aforesaid, the impugned order dated 27.3.07 so far as it relates to the 1st respondent wife shall stand set aside. In that event, the revision petitioner will be entitled to either re-call the witnesses examined on behalf of the applicant or adduce rebuttal evidence with a view to substantiate his contentions. In the event of the impugned order getting set

aside as aforesaid, the Family Court shall finally dispose of the matter within three months of the date of deposit of the amount mentioned above. Parties shall appear before the Family Court without any further notice on 22.10.07. If the revision petitioner commits default in making the lump sum deposit of Rs.25,000/- as aforesaid, the impugned order will stand confirmed.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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